

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

VALLEY FORGE INSURANCE	)	
COMPANY, a Pennsylvania Corporation	)	
	)	Civil Action No.: 1:14-cv-792- MRB
Plaintiff,	)	
	)	Judge Michael R. Barrett
vs.	)	
	)	
FISHER KLOSTERMAN, INC., a Delaware	)	
Corporation	)	
	)	
Defendant.	)	

**PLAINTIFF VALLEY FORGE INSURANCE COMPANY’S  
MOTION TO DISMISS COUNT VI (BAD FAITH) OF  
DEFENDANT FISHER KLOSTERMAN INC.’S COUNTERCLAIM**

Valley Forge Insurance Company (“Valley Forge”), through its counsel, requests this Court, pursuant to Federal Rule 12(b)(6), dismiss Count VI (Bad Faith) of Defendant Fisher Klosterman Inc.’s Counterclaim, for failure to state a cause of action against Valley Forge upon which relief can be granted.

This Motion is supported by the points and authorities set forth in the accompanying Memorandum of Law in Support and Exhibits attached thereto.

Dated:           October 26, 2015

Respectfully submitted,

**/s/Thomas B. Bruns**

Thomas B. Bruns (0051212)  
FREUND, FREEZE & ARNOLD  
Fourth & Walnut Centre  
105 East Fourth Street, Suite 1400  
Cincinnati, OH 45202-4035  
Phone: 513-665-3500  
Fax: 513-618-3503  
E-Mail: tbruns@ffalaw.com

and

Kathryn M. Frost (admitted *pro hac vice*)  
ELENIUS FROST & WALSH  
333 South Wabash Avenue, 25<sup>th</sup> Floor  
Chicago, IL 60604  
Telephone: 312-822-2659  
Fax: 312-817-2486  
E-Mail: Kathryn.Frost@cna.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on October 26, 2015, I filed Plaintiff Valley Forge Insurance Company's Motion To Dismiss Count VI (Bad Faith) Of Defendant Fisher Klosterman's Inc.'s Counterclaim with the Clerk of the Court by using the CM/ECF system which will send notification of such filing to all counsel of record.

**/s/Thomas B. Bruns**

Thomas B. Bruns (0051212)